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Michael D. Beck Baker & Daniels Suite 2700 300 N. Meridian Street Indianapolis, IN 46204				
EXAMINER				
FRENEL, VANEL				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/903,001

Applicant(s)

PRATT ET AL.

Examiner

VANEL FRENEL

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12/19/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other \_\_\_\_\_
- 7) ☐ Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### **Notice to Applicant**

1. This communication is in response to Affidavit of Declaration filed on 12/19/07.

Claims 1-13 are pending.

2. In view of the Appeal Brief filed on 9/20/06, PROSECUTION IS HEREBY REOPENED as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 C.F.R. 1.111 (if this Office action is non-final) or a reply under 37 C.F.R. 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplement appeal brief, but no new amendments, affidavits (37 C.F.R. 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 C.F.R. 1.193) (b) (2).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admasu et al. (2002/0032601) in view of Martinez et al. (5,168,354).

(A) As per claim 1, Admasu discloses an automated payment system for a parking facility, comprising: an exit gate operable to control egress from the parking facility (See Admasu, Page 1, Paragraph 0006); a payment terminal including: means for assessing a payment amount (See Admasu Page 1, Paragraph 0006; Page 2, Paragraph 0023); means for receiving the payment amount (See Admasu, Page 2, Paragraph 0027); means for opening said exit gate upon receipt of the payment amount (See Admasu, Page 4, Paragraph 0042).

Admasu does not explicitly disclose means for providing two-way video and audio communication with a monitoring facility remote from said payment terminal.

However, this feature is known in the art, as evidenced by Martinez. In particular, Martinez suggests that the system having means for providing two-way video and audio communication with a monitoring facility remote from said payment terminal (See Martinez, Col.4, lines 60-68 to Col.5, line 31).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Martinez within the system of Admasu with the motivation of providing a remote order station and an inside attendant station which utilizes a communication system capable of providing two, eye-to-eye visual, as well as audio, communication in an efficient and inexpensive manner (See Martinez, Col.3, lines 1-6).

(B) As per claim 2, Admasu discloses the automated payment system wherein said means for providing two-way video and audio communication includes an Ethernet or

Internet link between said payment terminal and the monitoring facility (See Admasu, Page 3, Paragraph 0032).

(C) As per claim 3, Admasu discloses the automated payment system wherein said means for providing two-way video and audio communication includes an IP-addressable video camera (See Admasu, Page 3, Paragraph 0032).

(D) As per claim 4, Admasu discloses the automated payment system further comprising: a processor at said payment terminal operable to control said means for assessing and said means for receiving (See Admasu, Page 4, Paragraph 0041); and a data link between said processor and the monitoring facility to permit remote control of said processor (See Admasu, Page, Paragraphs 0041-0042).

(E) As per claim 5, Admasu discloses an automated payment system for a plurality of parking facilities comprising: a central monitoring facility (See, Admasu, Page 2, Paragraph 0015); a plurality of exit facilities remote from said central monitoring facility (See, Admasu, Page 2, Paragraphs 0014-0015), each controlling egress from a corresponding one of the plurality of parking facilities (See Admasu, Page 1, Paragraph 0006); a payment terminal at each of said plurality of exit facilities, each having means for assessing and receiving payment (See Admasu Page 2, Paragraph 0027).

Admasu does not explicitly disclose that the system having means for providing two-way video and audio communication between said central monitoring facility and said payment terminal at each of said plurality of exit facilities.

However, this feature is known in the art, as evidenced by Martinez. In particular, Martinez suggests that the system having means for providing two-way video and audio communication between said central monitoring facility and said payment terminal at each of said plurality of exit facilities (See Martinez, Col.4, lines 60-68 to Col.5, line 31).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Martinez within the system of Admasu with the motivation of providing a remote order station and an inside attendant station which utilizes a communication system capable of providing two, eye-to-eye visual, as well as audio, communication in an efficient and inexpensive manner (See Martinez, Col.3, lines 1-6).

(F) As per claim 6, Admasu discloses the automated payment system wherein said means for providing two-way video and audio communication includes an Ethernet or Internet link between said payment terminal and the monitoring facility (See Admasu, Page 3, Paragraph 0032).

(G) As per claim 7, Admasu discloses the automated payment system wherein said means for providing two-way video and audio communication includes an IP-addressable video camera (See Admasu Page 3, Paragraph 0032).

(H) As per claim 8, Admasu discloses the automated payment system further comprising: a processor at said payment terminal operable to control said means for assessing and said means for receiving (See Admasu, Page 4, Paragraph 0041); and a data link between said processor and the monitoring facility to permit remote control of said processor (See Admasu, Page 4, Paragraph 0041).

(I) As per claim 9, Admasu discloses the automated payment system further comprising: a central processor at said central monitoring facility connected to said processor at said payment terminal through said data link and controllable at said central monitoring facility to control said processor at said payment terminal (See Admasu, Page 4, Paragraph 0042).

(J) As per claim 10, Admasu discloses an automated payment system for a facility, comprising: an apparatus for calculating a payment amount (See Admasu Page 1, Paragraph 0006; Page 2, Paragraph 0023); an apparatus for receiving the payment amount (See Page 2, Paragraph 0027);

Admasu does not explicitly disclose that the system having a gate apparatus operable to control access to the facility in response to receipt of the payment amount; and a two-way video and audio communication system linking the automated payment system with a monitoring facility remote from the automated payment facility.

However, these features are known in the art, as evidenced by Martinez. In particular, Martinez suggests that the system having a gate apparatus operable to control access to the facility in response to receipt of the payment amount (See Martinez, Col.4, lines 30-68); and a two-way video and audio communication system linking the automated payment system with a monitoring facility remote from the automated payment facility (See Martinez, Col.4, lines 60-68 to Col.5, line 31).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Martinez within the system of Admasu with the motivation of providing a remote order station and an inside attendant station which utilizes a communication system capable of providing two, eye-to-eye visual, as well as audio, communication in an efficient and inexpensive manner (See Martinez, Col.3, lines 1-6).

(K) As per claim 11, Admasu discloses the automated payment system wherein said means for providing two-way video and audio communication includes an Ethernet or Internet link between said payment terminal and the monitoring facility (See Admasu, Page 3, Paragraph 0032).

(L) As per claim 12, Admasu discloses the automated payment system wherein said means for providing two-way video and audio communication includes an IP-addressable video camera (See Admasu, Page 3, Paragraph 0032).



(M) As per claim 13, Admasu discloses the automated payment system further comprising: a processor operable to control said means for assessing and said means for receiving (See Admasu, Page 4, Paragraph 0041); and a data link between said processor and the monitoring facility to permit remote control of said processor (See Admasu, Page 4, Paragraphs 0041-0042).

### ***Response to Arguments***

5. Applicant's arguments filed 12/19/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 12/19/07.

(A) At pages 1-4 of the 12/19/07 response, Applicant argues that the features in the 12/19/07 Affidavit of Declaration are not taught or suggested by the applied references.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features in the 12/19/07 appeal brief, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Admasu and Martinez, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gart Matthew S can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3687

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/  
Examiner, Art Unit 3627

March 12, 2008